

Greenberg Traurig

December 19, 2005

VIA HAND DELIVERY

The Honorable Joseph J. Farnan, Jr.
United States District Court
District of Delaware
844 King Street
Wilmington, DE 19801

**Re: *In re NorthWestern Corporation*
Magten Asset Management Corp. v. NorthWestern Corp.,
Civil Action No. 04-1494-JJF**

Dear Judge Farnan:

This firm is co-counsel for NorthWestern Corporation ("NorthWestern"), along with the firm of Curtis, Mallet-Prevost, Colt & Mosle, in the above-referenced action, No. 04-1494-JJF (the "NorthWestern Action").

We write in response to the letter dated December 16, 2005 sent to Your Honor by counsel for plaintiff Magten Asset Management Corporation ("Magten").

First, we would like to report to the Court on the mediation efforts that the parties engaged in pursuant to Your Honor's Order of October 27, 2005. As we previously advised the Court, the parties selected Alan Miller, Esq. of Weil, Gotshal & Manges LLP to serve as Mediator, and NorthWestern agreed to bear the costs of the mediator's fees and expenses. On behalf of all the parties to the mediation, and after consultations with them, NorthWestern undertook to provide extensive documentary background material to Mr. Miller concerning the several pending litigations between Magten, NorthWestern, and related parties. On November 28, 2005, the parties submitted their Confidential Mediation Statements to the mediator. After reviewing the documents and parties' submissions, Mr. Miller held a pre-mediation meeting with counsel only in attendance on December 1, 2005. Subsequently, all parties and their counsel attended the mediation in New York on December 13, 2005. Despite NorthWestern's good faith efforts, the parties failed to reach a settlement via mediation.

Magten now writes to the Court seeking the immediate commencement of full-scale discovery in the NorthWestern Action and Magten's two related actions against NorthWestern's counsel, Paul Hastings Janofsky & Walker, LLP (Civil Action No. 04-1256-JJF), and certain of NorthWestern's officers and directors (Civil Action No. 05-0499-JJF). Magten has requested that the Court direct the parties to provide Initial Disclosures by January 5, 2006, and has submitted two proposed Orders to the Court, seeking consolidation of the actions for purposes of discovery, the appointment of a Special Master, and a protocol for the handling of discovery disputes. However, Magten objects to the Court's proposed selection of Louic C. Bechtle to serve as Special Master.

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The Honorable Joseph J. Farnan, Jr.
December 19, 2005

Page 2

With respect to the Special Master, NorthWestern has no objection to the appointment of Judge Bechtle. As we previously advised the Court, NorthWestern does not share Magten's unspecified concerns that Judge Bechtle's prior service as mediator in certain disputes between NorthWestern and Magten creates any problem or conflict.

On the question of when discovery should commence and the extent to which Initial Disclosures may be required, we respectfully submit that it is premature and inappropriate for Magten to submit any proposed orders or to request that the Court fix any deadlines at this time. The parties have not yet conducted the conference required under Federal Civil Procedure Rule 26(f), which directs that the parties discuss and construct a plan for discovery, including timing, the precise subject matter or issues on which discovery may be needed, and any limitations that may be appropriate under the circumstances.

We will be in contact with counsel for Magten shortly to schedule the Rule 26(f) conference. We propose that, within the 14-day period after the parties' conference, as prescribed in Rule 26(f), the parties will provide the Court with a report of their proposed discovery plan and any open issues that may require the Court's intervention or assistance. Thereafter, the Court may schedule a conference to address any such open issues, as contemplated under Federal Civil Procedure Rule 16.

If Your Honor has any questions with regard to the foregoing, please feel free to contact me or Joseph D. Pizzurro, Esq., 212-696-6196.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'D. Meloro', with a long horizontal line extending to the right.

Dennis A. Meloro

cc: Clerk of Court (*Via* CMF)
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